IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NO. 32 OF 2003

THE COMMISSIONER OF INCOME TAX, PANAJI-GOA. ....Appellants

Versus

M/S DEMPO MINING CORPORATION PVT.LTD.,PANAJI-GOA. ....Respondents

SHRI S.R. RIVANKAR WITH,SHRI SUDIN USGAONKAR

Coram:- A.M.KHANWILKAR & P. V. HARDAS, JJ.

Date:- 15th December, 2003

P.C.:

Only one question is raised in these Appeals, being substantial question of law arising out of the impugned Order, to be examined by this Court in these Appeals under Section 260-A of the Income Tax Act, 1961. The same reads thus:-

A) Whether on the facts and in the circumstances of the case, the ITAT was justified in holding that the assessee is entitled for deduction on investment allowance u/s 32 A of the IT Act, in respect of Machinery used in Mining activity ignoring the fact that the assessee is engaged in extraction and processing of Iron Ore not amounting to manufacturing or production of any article or thing?"

2. Having considered the rival submissions, it is seen that insofar as the question regarding allowability of investment allowance on machinery is concerned, that issue stands answered by the unreported decision of our High Court in Tax Appeal Nos. 66/2002, 5/2003 and 6/2002, decided on 16th July, 2003. In the circumstances, we find no reason to examine that question afresh in these appeals. On the other hand, we are bound by the earlier decision of our High Court referred to above in the leading case of Commissioner of Income Tax vs. M/s. Sesa Goa Ltd..

3. In the circumstances these Appeals fail and the same are dismissed.

A.M.KHANWILKAR, J.

P. V. HARDAS, J.